301.451
Un334c

U.S.--COMMISSION ON CIVIL RIGHTS

CAIRO, ILLINOIS: A SYMBOL OF RACIAL POLARIZATION.

(1973)

CAIRO, ILLINOIS: A SYMBOL OF RACIAL POLARIZATION

(Recommendations Based On The Cairo Hearing, March 23-25, 1972)

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN

A Report of
the U.S. Commission
on Civil Rights
February 1973

301.451
Un334c

U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan Agency established by Congress in 1957 and directed to:

Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin, or by reason of fraudulent practices;

Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

Appraise Federal laws and policies with respect to equal protection of the laws;

Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and

Submit reports, finding, and recommendations to the President and the Congress.

Members of the Commission:

Stephen Horn, Vice Chairman
Frankie M. Freeman
Maurice B. Mitchell
Robert S. Rankin
Manuel Ruiz, Jr.

John A. Buggs, Staff Director

CR1.2:C12

LETTER OF TRANSMITTAL

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., February 1973.

THE PRESIDENT,
THE PRESIDENT OF THE SENATE,
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

SIRS: The United States Commission on Civil Rights presents to you this report pursuant to Section 104(b) of the Civil Rights Act of 1957, as amended.

This report is the product of a study by the Commission of the extraordinarily grave civil rights problems which long have beset the community of Cairo, Illinois. The Commission embarked on this study not merely because of the needs of Cairo itself, but also because the Commission concluded that such a study would shed light on the resolution of similar problems in other communities. The report sets out the Commission's recommendations for action responsive to the civil rights problems which have been identified. Many of these recommendations--including those for change in the laws and policies of the Federal government--are imperative not merely for Cairo, Illinois, but also for other similarly troubled communities across the nation.

We urge your consideration of the facts presented and recommendations made for corrective action.

Respectfully yours,

Stephen Horn, Vice Chairman
Frankie M. Freeman
Maurice B. Mitchell
Robert S. Rankin
Manuel Ruiz, Jr.

John A. Buggs, Staff Director

The Commission is grateful to the many private citizens and public officials who gave generously of their time and knowledge to Commission staff members who visited Cairo. Without their cooperation, this report could not have been written.

The Commission is indebted to the following staff members who participated in the preparation of this report: Stephen Brown, Lawrence B. Glick, Valeska S. Hinton, Hester Lewis, Clark G. Roberts, Conrad P. Smith, Michael R. Smith, John C. Ulfelder, and Michael D. Walker. The General Counsel, John H. Powell, exercised general supervision over this project.

Preface

Cairo, Illinois is a small town. It is poor and its population is declining rapidly. This description does not make Cairo particularly significant nor different from many small towns in twentieth century America, but in the late 1960's Cairo became nationally prominent as a vivid symbol of racial polarization which is destroying that community, and which exists to a greater or lesser extent in other cities and towns across the United States.

In the late 1960's, as it became apparent that the racial situation in Cairo had escalated out of control, Federal and State agencies were compelled to turn their attention to Cairo, as did several factfinding missions, in an attempt to resolve some of the problems facing this racially torn community.

In the spring of 1972, after the outward manifestations of racial hostility had abated, the United States Commission on Civil Rights held a three-day public hearing in Cairo to look at the underlying causes of the racial strife and to determine what could be done to resolve the city's problems.

The Commission's 1972 hearing in Cairo was the culmination of over six years of effort in that community. That effort began in 1966 when the Commission's Illinois State Advisory Committee held two days of public meetings in Cairo and reported its findings to the Commission. For some time after that meeting the State Committee monitored the efforts of State and Federal agencies

responding to the Committee's findings. In 1966, after receiving complaints from the black community, a Commission staff attorney was sent to Cairo to investigate the formation of a white citizens group allegedly formed as a civilian defense force. As a result of that investigation, the Commission contacted State officials about the deteriorating situation in Cairo. The Commission continued to monitor the situation and in the fall of 1971 began an intensive investigation of the civil rights problems of Cairo and Alexander County. Subsequently, the Commissioners decided to hold a public hearing in Cairo in March 1972. The following report is a presentation of what it found together with the Commission's recommendations to local State and Federal governments in light of its findings.

INTRODUCTION

Although in the past few years the focus of attention has been on the city of Cairo, that city must be seen as part of a larger economically depressed region encompassing several counties in southern Illinois. Thus, any discussion of Cairo must, of necessity, reflect the situation in the surrounding area.

Despite its advantageous location at the confluence of the Ohio and Mississippi Rivers, Cairo has experienced a steady economic decline since 1930. As jobs were lost, largely due to the mechanization of the river trade industry and new industrial and commercial opportunities failed to materialize, the population decline accelerated, resulting in a loss of 50 percent of the population between 1950 and 1970. According to the 1970 census, Cairo had 6,277 residents of whom 2,351 (37.5 percent) were black. 1/ The lack of economic opportunities in the area has caused most of the young people, as well as many of the older residents of both races to leave the city and has led to a proportionate increase in the number of low-income families and the elderly.

Although poverty is a serious problem in Alexander County of which Cairo is the county seat with approximately one-half of the county's total population, the area's economic stagnation

---

1/ United States Commission on Civil Rights Staff Report: Demographic, Economic, Social and Political Characteristics of Cairo and Alexander County, Illinois (1972) at 3 (hereinafter cited as Demographic Report).

has been especially difficult for the black population. While the median income for a white family in 1969 was $6,428, the median income for a black family was only $2,809. Three quarters of the black families and one-third of the white families earned less than $3,000 per year in 1969.[2/]

It is currently estimated that more than one-third of the Cairo population receives some form of public assistance and that twice as many blacks as whites receive such assistance.[3/] According to the 1970 census, the unemployment rate for Alexander County was 9 percent; for white males it was 6.5 percent; and for black males it was 16.2 percent.[4/]

The improvement of this bleak economic picture depends on the attraction of new commerce and industry from other areas, as well as the expansion of existing business and industry. Some efforts are being made to achieve this goal by a regional development corporation primarily funded by the Federal Government.[5/]

In 1966, because of its growing concern about the situation in Cairo, the Commission's Illinois State Advisory Committee held

---

2/ Id. at 5.

3/ Id. at 7, 8.

4/ Id. at 18.

5/ Transcript of Hearing Before the U.S. Commission on Civil Rights, Cairo, Illinois, March 23-25, 1972 at 33 (hereinafter cited as Cairo Transcript).

an open meeting to explore the city's racial problems.[6/] Representatives from all segments of the city's population, including black and white community leaders and local government officials, appeared before the Committee. Although the testimony revealed a number of problems, there was widespread expectation of improvement in the racial climate. However, citizens interviewed in preparation for the 1972 hearing stated emphatically that the city had made few, if any, improvements in the situation, particularly with regard to opening up opportunities for the city's minority citizens.

As the economic situation deteriorated and the competition for decreasing jobs intensified, racial tension increased. In March 1969, some members of the black community organized themselves under the name of The United Front and began a boycott of the stores in Cairo. The purpose of their boycott was to force the white power structure of Cairo to include blacks at all levels of community activity and to gain jobs for blacks in local retail establishments.

The white community reacted quickly by increasing police protection and forming its own civilian defense force known as the United Citizens for Community Action (UCCA). Confrontations between the white and black communities escalated rapidly, nightly gunfire became common, and open violence flared.

6/ Transcript of Cairo, Illinois Open Meeting, Illinois State Advisory Committee, 1966 (unpublished, available in Commission files in Washington, D.C.).

In direct response to the outbreak of violence, Paul Simon, the Lieutenant Governor of Illinois, spent a week in Cairo during April 1969. He stated that his purpose was to find concrete solutions for the State to pursue. Mr. Simon's report noted the State's responsibilities in relation to Cairo:

> In part, the problems which Cairo faces have been caused by State indifference. Cairo has been a long way from the seat of power, and too often a long way from its share of attention by most departments of State government. 7/

In May 1969 the Commission on Civil Rights, working with its Illinois Advisory Committee, sent a staff attorney to Cairo to investigate allegations by the black community that a "white vigilante" group calling itself the "White Hats" had been formed. As a result of this investigation the Commission tentatively concluded that a communitywide racial conflict involving deadly weapons was possible if the police department was allowed to deputize members of the "White Hats". The Commission recommended that the State government take steps to prevent such a conflict. 8/ The State acted and the group was subsequently disbanded as a formal organization, although its members remained as a nucleus of white citizen opposition to the demands of the black community. Later, several active members of the organization were elected to the Cairo City Council.

7/ Recommendations Regarding Cairo, Illinois: Memorandum from Lieutenant Governor Paul Simon, Apr. 22, 1969 at 7.

8/ Office of General Counsel Memorandum to Illinois State Advisory Committee entitled, The White Hats, June 10, 1969.

In 1969 the Illinois General Assembly appointed a special House Committee to investigate the conflicting allegations it had received concerning the situation in Alexander County and Cairo. In its interim report [the only report produced by the special committee] it stated:

> This social pattern of emotions overruning facts creates a vicious circle...the white community feels that the blacks are trying to take over and to drive them out. The black community, on the other hand, feels that the white community actively conspires... to prevent them from participating significantly in the government or in the society...This...is somewhat oversimplified inasmuch as there is a whole range of feelings present in both communities. There are obviously men of good will capable of leading both communities to a reasonable accommodation. It is terribly difficult for such people...to exercise leadership in a crisis situation where feelings have become as polarized as they are now. However this polarization came about, it represents the most serious obstacle to accommodation. 9/

In November 1969 the Regional Council of Federal Agencies in Chicago responded to the situation in Cairo by designating an Inter-agency Task Force to coordinate all Federal efforts in Cairo. The then Mayor of Cairo presented a general proposal to the Task Force specifying a number of local problems and calling for assistance from various Federal agencies. He indicated however,

---

9/ Preliminary Report of the Special House Committee to Investigate the Allegations Concerning the County of Alexander and the City of Cairo, Appointed Pursuant to House Resolution No. 118, Rep. Leslie N. Jones, Chairman (undated) at 3-4.

that "the primary responsibility for initiating and designing specific programs should rest with local groups composed of representatives from all segments of citizenry." 10/

From the outset the Task Force stressed the need for the community to establish a local citizens group to assure broad based citizen participation in the planning and implementation of various federally assisted programs. Mr. Harvey Lorberbaum, Chief of the Office of Economic Opportunity (OEO) Office of Special Projects in the Region, and Chairman of the Inter-agency Task Force, testified at the Commission hearing that the Task Force met a continuing lack of response to its request for local participation in order to secure Federal programs. After nearly 2 years it finally recommended that,

> [the Task Force] be relieved of its responsibilities since it had met with frustration, since it felt that it had utilized all of the things that were at...[its] disposal and still [was] unable to get the kind of positive response that it felt was necessary and should have been forthcoming... The successes were minimal since there are very limited programs that can be put into a community without community acceptance. 11/

In September 1971, the Inter-agency Task Force ceased to function as a special action body, but still continues to meet quarterly in order to exchange information and maintain some inter-agency coordination. 12/

10/ Cairo Transcript at 54.

11/ Id. at 57 and 63.

12/ Id. at 57.

In order to determine what steps the Commission could take to be of help to the city, two staff attorneys were sent to Cairo in September 1971. They spent a week in Cairo reviewing the situation and reported that the city was engulfed by serious racial problems. They wrote in their report: 13/

> Neither group understands the other and neither is making an attempt to do so....The tragedy of this situation is that both groups are caught in a web of emotional rhetoric and have divorced themselves from reality and are therefore unable to move the city toward economic, political, or social progress.

After considering the staff report and reviewing the history of racial conflict in Cairo, the Commissioners decided to investigate the situation further and subsequently voted to conduct a public hearing in Cairo in March 1972.

In preparing for the hearing, Commission staff attorneys and field representatives of the Commission's Midwestern Field Office in Chicago conducted interviews with residents of Cairo as well as other persons familiar with the city's problems to make certain that all points of view were heard. Among those interviewed were students, parents, law enforcement officials, community leaders, civil rights leaders, and officials of the city, county, State and Federal government. The information obtained in these interviews was supplemented by statistical data, historical information, and other material obtained from a variety of sources.

13/ Cairo, Illinois -- Has It Passed the Point of No Return, Commission Staff Report (September 1971) at 13.

The hearing itself focused on the problems of the administration of justice, education, employment (private and public), housing, health care and economic development, and the basic fact of racial discrimination and polarization in Cairo. The Commission also looked at the range of Federal, State, and local resources which were available to Cairo.

Although the immediate focus of the Commission's hearing was the intense racial and economic difficulty facing Cairo, the Commissioners were aware that Cairo is not an isolated example. Indeed, the factors causing its problems exist in many communities across the country. We hope that our searching probe into the dynamics of Cairo will be instrumental not only in moving toward productive solutions in that community, but in providing direction to other cities and towns as they attempt to assess similar problems and to work out their own solutions.

The end result can perhaps best be summarized in the words of Commissioner Frankie M. Freeman, who said at the end of the 3-day hearing:

> The information gathered at this hearing will form the basic element which we will use to examine and evaluate not only the problems of Cairo, but possibly of cities throughout the Nation that are also troubled by poverty, racial strife, and by apathy or lack of imagination on the part of local officials and who in some cases thwart the efforts of State and Federal governments. The problems of Cairo are also exacerbated by State and local

> governmental agencies who are reluctant to use the authority at their command to compel adherence to civil rights laws...[The people of Cairo face] the frustration of dealing with seemingly immobile bureaucracies on the one hand and racial prejudice and poverty as divisive factors, on the other.

The hearing focused on law enforcement, education, housing, employment and health; and as Commissioner Freeman concluded,

> In all these areas we have seen the contrast between what is and what might be. 14/

The following pages set out, and explain in terms of factual findings, the Commission's recommendations for action responsive to the grave civil rights problems in this community. Like the Commission study effort itself, many of these recommendations are equally applicable to other similarly troubled communities across the nation.

14/ Cairo Transcript at 737.

RECOMMENDATIONS

LAW ENFORCEMENT

1. The Commission recommends that the Cairo City Council pass a resolution clearly stating its intention to ensure the independence of the Cairo Police Department and to assist the chief of police with a wide ranging program designed to upgrade and reform the Cairo Police Department and to make the department more responsive to the law enforcement needs of the entire community.

The ultimate responsibility for the conduct and operation of the Cairo Police Department rests with the city's elected officials--the mayor and city council. As the elected representatives of the city, including the 38 percent of the population that happens to be black, the mayor and city council should take steps to make certain that the Cairo Police Department operates in accordance with the law and carries out its duties as a professional law enforcement agency. The city council, whose members serve on a part-time basis, cannot and should not interfere with the day-to-day operation of the police department. This is the job of the chief of police and he must have the full confidence of the city administration to perform that job.

Under Illinois law, the police commissioner, an elected member of the city council, is not responsible for the day-to-day

operation of the police department.[15] The history of law enforcement in Cairo makes it clear that the various members of the city council who have served as police commissioner have overstepped the bounds of their authority and attempted to run the department and, in part, were responsible for a number of rapid changeovers in the position of chief of police.[16]

At the time of the Commission's hearing, even though Cairo was not faced with the problems of daily violence and confrontation evident in the late '60s, the current police commissioner was operating as his predecessors and was trying to run the department.[17] This ursurpation of authority has two effects:

1. It takes control of local law enforcement out of the hands of the full-time chief of police who is charged with the responsibility of running the department and puts it in the hands of a part-time person with little professional experience; and

2. it prevents the police department from remaining neutral during disputes involving city officials and interferes with the department's attempt to carry out its duties in an unbiased, professional manner.

15/ Ill. Rev. Stat. ch. 24, § 4-5-2 and 11-1-2 (Smith-Hurd 1961). Pursuant to authority delegated to him by the mayor, the police commissioner exercises general control over the police department and is charged with ensuring that the policies of the mayor are observed and implemented by the department, Cairo City Ordinance No. 454 (undated).

16/ Cairo Transcript at 110-11.

17/ Id. at 131-33; See, Field Operations Division, International Association of Chiefs of Police. A Survey of the Police Department Cairo, Illinois (August 1970) at 12, 15-16, and Chart 2.2 at 11 (hereinafter cited as IACP Report).

Until such time as the police department can operate from a position of absolute neutrality, it will never be able to gain the support necessary from all segments of the community for it to function properly and to prevent violations of the law irrespective of where the responsibility lies. A professional law enforcement agency should not choose sides in a dispute, but should enforce the law equally.

The first step that could be taken to assure all the residents of Cairo that henceforth the police department would operate in a proper manner would be for the Cairo City Council to indicate by public resolution or otherwise that (1) it will not unduly interfere with the operation of the department, (2) it will give the chief and his department all the support necessary to undertake badly needed reforms, and (3) it will hold the chief responsible for seeing to it that his department is responsive to the needs of the entire community.

2. The Commission believes that the following steps are absolutely essential to any reform of the Cairo Police Department:

a. The City of Cairo should utilize the August 1970 report of the International Association of Chiefs of Police (IACP) as the best starting point for such change.

In the past the Cairo Police Department has been both unprofessional and biased.[18] A good faith effort to change this situation must include sweeping changes in the structure and conduct of the department. The IACP's August 1970 report on the Cairo Police Department is a detailed and careful study by high ranking, experienced professionals in the field of law enforcement. This report spelled out the major and minor problems of the department and made a number of wide-ranging recommendations aimed at upgrading the department and improving the quality of law enforcement in Cairo.[19]

This report should be updated with the assistance of the IACP and changes should be undertaken with the continuing assistance of the IACP. It is likely that funds for such assistance would be available from the Illinois Law Enforcement Commission (ILEC), which funded the original study. Such an effort should be closely coordinated with the ILEC and experts on the staff of the Greater Egypt Regional Planning and Development Commission.

b. The City of Cairo must take affirmative steps to recruit, hire and train more black police officers.

18/ According to testimony received at the hearing from black residents of Cairo and two former black police officers, the use of excessive force, the use of racial epithets, discrimination in services provided to the black community, and discrimination in the role of black officers in the Cairo Police Department were common occurrences. Cairo Transcript at 72, 80, 87, 88, 114-15. See also, IACP Report, n. 17 supra.

19/ IACP Report, supra.

At the time of the Commission's hearing in March 1972 the Cairo police force employed 17 men including the chief. Of these 17 men only one was black. In a community where 38 percent of the population is black and where relations between the black community and the police department have been extremely bad, this is intolerable. According to testimony by the chief of police and the police commissioner steps have been taken to try and recruit black officers, but these efforts have met with little success. Based upon its investigation the Commission believes that these efforts have in actuality been minimal and are doomed to fail so long as the police department and the city administration tries to recruit black officers who will work within the department as it is currently constituted.

A major barrier to hiring additional black officers is the reputation of the police department in the black community, a reputation based on past discrimination against black officers and undue harassment of black citizens.[20/] Only after the city and the police department have made it clear that they intend to make major changes in the role and function of the police department will they succeed in attracting qualified black applicants.

20/ Cairo Transcript at 87, 90, 73, 79; see also n. 18 supra.

Black officers recruited from the black community would be more sensitive to police problems in that community and would relate better to black residents of Cairo. This would, in turn, increase the confidence of black citizens in the entire police department and make the job of every officer on the police force easier.

c. The Cairo Police Department should establish a comprehensive police-community relations program that involves every member of the department and that includes representation of all segments of the community.

In its 1970 report the IACP stated that the outstanding police problem in Cairo was "racial strife". In a number of different ways the Cairo Police Department has exacerbated this problem rather than contributed to its solution.[21/] In order to better understand these problems from a law enforcement point-of-view and to make a positive contribution to their solution both within the police department itself and in the community-at-large, the department should establish a wide-ranging police community relations program with the strongest possible commitment to its success by the city council and the chief of police.

21/ According to the IACP, the Cairo Police Department has been "somewhat less than effectual" and its personnel "generally untrained and incapable of coping with the many problems facing them". IACP Report at 3.

Police Commissioner James Dale testified at the Commission's March 1972 hearing that in his opinion such programs had been failures elsewhere and, therefore, were not worth trying in Cairo.[22] While it is true that such programs have failed in some other communities, on the whole they have been successful and have contributed to the lessening of tension and the improvement of law enforcement practices in a number of areas.[23]

Certain factors should be kept in mind in establishing such a program, factors that will play a major role in securing its success. First, a police-community relations program must have the strongest support possible of the chief of police and the city administration. It must, in effect, be one of the highest priority items on their agenda. Without this kind of support the program will be continually undercut and will not receive the necessary cooperation of other police officers or of people in the community. Second, the police-community relations program cannot merely be a one or two man operation. It must involve every man in the department as well as persons in the white and black communities of Cairo. This means that the person selected to head the program must have the rank

---

22/ Cairo Transcript at 133.

23/ See, The President's Commission on Law Enforcement and Administration of Justice, Field Survey V, A National Survey of Police and Community Relations (January 1967) at 32-127.

and supervisory responsibilities to deal with other members of the department, who, in some instances, may well be reluctant to participate in such a program.

In selecting persons from outside the department to participate in such a program it will be necessary to include representatives of various organizations as well as responsible individuals who have something to offer to the solution of these problems. This means representatives of the United Front of Cairo as well as black citizens who are not as closely identified with that organization. Third, the head of the police-community relations program should have the authority to make recommendations to the chief of police regarding changes in departmental practices and procedures where, in the opinion of the Police-Community Relations Advisory Board [which the Commission recommends be established under the program] such practices and procedures are interfering with the mission of the police department and are impeding police-community relations. The purpose of a police-community relations program is not merely to improve the public relations image of the department, but also to give it concrete guidance on how to make the actions of the department more relevant to the law enforcement needs and problems of the entire community. It must serve not only as a mechanism for the airing of problems, but also as a vehicle through which action can be taken to solve the problems it uncovers.

d. The city of Cairo and the Cairo Police Department should establish a clear and definite procedure for receiving and disposing of complaints against all police officers.

Under the laws of Illinois and the City Ordinances of Cairo a procedure for disciplining police officers has been established.[24/] These procedures give the chief of police the authority on his own to suspend an officer for up to 5 days for a violation of specific rules and regulations; more serious offenses that might involve a longer suspension or actual dismissal require a hearing before the three-man board of police and fire commissioners.

What has not been established, however, is a procedure for receiving complaints from citizens and for the investigation and disposition of such complaints in a fair, open and reasonably speedy manner. At the Commission's March 1972 hearing the chief of police could not reply with any certainty as to the number or type of civilian complaints he had received since he had become chief.[25/] Apparently little action had been taken on such complaints. Thus, while State law and local ordinances go a long way to protect the rights of the accused officer, there is nothing to ensure that civilian complaints will be handled fairly or quickly

---

24/ Ill. Rev. Stat. ch. 24, § 10-2-17 (Smith-Hurd 1961); Cairo City Ordinance No. 454 (undated).

25/ Cairo Transcript at 127-30.

unless the chief or the police commissioner chooses to take some action in a particular case.

The Commission recommends that a definite procedure be established for the receipt and investigation of civilian complaints and that at a minimum the procedures should do the following: (1) establish a time and a place for the receipt of civilian complaints and provide printed forms to be filled out by the complainant; (2) set definite time limits for the investigation and determination of the validity of such complaints once they have been officially received by the police department; (3) require that the police chief or the board of police and fire commissioners officially notify the complainant and/or his or her attorney of the results of the investigation and the action taken as a result of its findings; (4) require that there be no threat, direct or implied, that any action may be taken against the complainant if the complaint is determined to be unfounded.

In addition, the officials of the city of Cairo should consider using a police-community relations program advisory board to advise the chief of police and the board of police and fire commissioners on the disposition of civilian complaints against police officers.

The Commission's investigation indicates that the reason why the Cairo Police Department has not received a large number of civilian complaints is because the community, particularly the

black community, has little confidence in the current department's willingness or ability to investigate such complaints fairly and impartially. This view seems to be well founded on past experience.[26/]

One step to help reestablish confidence in this process would be to adopt regulations providing for a complete and careful investigation of such complaints, pursuant to which complainants would be sure to learn of the disposition of their complaint. The success of such a program depends on the attitude of the police department. If it chooses to ignore such civilian complaints as unwarranted criticisms of police officers and the work they perform, rather than a feeling on the part of a citizen that his or her rights were infringed upon, little can be done to change that misguided attitude.

Many complaints against police officers are a result of a misunderstanding of the law and the duties of the officer to enforce that law and can be quickly cleared up to the satisfaction of both parties. It is clear, however, that there are a number of incidents in Cairo involving police officers and local citizens that do have some substance to them and should result in possible disciplinary action or a change in police practices.[27/]

26/ The IACP reported a lack of adequate procedures for handling civilian complaints. IACP Report at 81-3. The chief's testimony underscored this problem, Cairo Transcript at 127-30.

27/ Some of these complaints have been sent to the Department of Justice for investigation and possible prosecution. Federal law concerning police misconduct, however, is somewhat narrow and local action is preferable. See also, Cairo Transcript at 68-105.

The establishment of a more definite procedure for the handling of all civilian complaints will at least provide a mechanism for achieving a record for the examination of such complaints. While all complaints are implied criticisms of the police department, they also are one of a number of ways of checking on police practices and the conduct of individual officers. For this reason they cannot and should not be ignored. Since, unlike most public officials, a police officer has the power of life and death in his hands he should be subject to a more searching examination of his conduct than other types of public servants.

3. The Commission recommends that the Governor of Illinois and the Illinois General Assembly consider the need for new legislation giving State officials the authority to exercise control of certain local functions, such as law enforcement, in situations where local officials are not properly fulfilling that function and where the interests of citizens of Illinois are not being adequately protected.

Although the primary responsibility for a number of government functions and services rests with local authorities, the State of Illinois and its duly elected officials generally have the ultimate responsibility for protecting the rights and interests of the citizens of the State.[28/]

28/ Ill. Const. art. V, § 8 (1971).

When a subordinate level of government created under the Constitution and laws of a sovereign State and empowered to perform certain public functions fails to operate in a manner protective of the rights and interests of State citizens it is incumbent on State officials who have the ultimate responsibility vis-à-vis the adequacy of public services to State citizens to exercise their authority to see that the Constitution and laws of the State of Illinois and the United States are followed. 29/

The Commission believes that in Cairo, Illinois in the area of law enforcement there has been a breakdown of law and justice. Although both the State and Federal courts have been able to some extent to protect the rights of local citizens, 30/ this has not seriously affected the day-to-day operation of the police department and individual law enforcement officers. In cases such as Cairo where the rights of certain citizens have not been adequately safeguarded by local authorities, and existing remedies appear to be insufficient to correct the situation it is incumbent on State officials to consider further remedial action.

29/ Id.

30/ Interim settlement order issued by Federal District Judge William G. Juergens allowing Cairo's black citizens to demonstrate, over objection of local and State authorities, Civ. No. 69-139, (.E.D. Ill. 1969).

Under existing State law the tools available to State officials are limited. The Governor of Illinois has the authority to order "such military or naval force as he may deem necessary" into a community, but only in times of riot or mob violence.[31/] In addition, he can deploy State police officers to any part of the State when he thinks it is necessary.[32/] The State police, however, cannot supplant local law enforcement officials, they can only exercise their authority as State police officers.[33/] As a practical matter because the State police are dependent on the cooperation of local law enforcement officials, it is unlikely that they will take any action that would jeopardize that cooperative relationship.

The attorney general of Illinois, who is an elected official, has authority as the "peoples' lawyer" to enforce all the laws of the State.[34/] While he can investigate and prosecute violations of State law by local officials, he cannot assume control of local functions or services.

Based on the testimony received at the Cairo hearing, information compiled in the course of the Commission's field work in Illinois, and on the history of the racial strife in Cairo, the

---

31/ Ill. Rev. Stat. ch. 129, § 194, (Smith-Hurd 1909).

32/ Telephone interview by Stella Caballero, Staff Attorney, with John Dreiske, Assistant to the State Director of Law Enforcement (Nov. 29, 1972).

33/ Id.

34/ Ill. Rev. Stat. ch. 14 § 4, (Smith-Hurd 1965).

Commission believes that law enforcement in Cairo has been practiced in a discriminatory and completely unprofessional manner. Basic police services have been arbitrarily denied to certain areas in the black community.[35/] Black residents have been faced with serious harassment and physical brutality by law enforcement officials.[36/] Police weapons have been used indiscriminately in an attempt to threaten the black community.[37/] And local law enforcement officials have aligned themselves with individuals and groups whose purpose is to oppose the enforcement of equal opportunity for all citizens regardless of race.[38/]

Where a substantial segment of the population of a municipality, with just cause, loses all confidence in the desire or capacity of constituted local authority to provide for its general welfare and protection, a crisis in government exists. We believe that such a crisis exists in Cairo, because local officials there are not fulfilling their constitutional and statutory responsibilities. Therefore, in light of the situation there, the Commission

---

35/ Cairo Transcript at 115.

36/ Testimony was received that excessive force and threats of force were used to "keep blacks in line." Cairo Transcript at 68-93.

37/ One witness described an incident initially involving a minor traffic violation where both on-duty and off-duty police officers, as well as private citizens, drew weapons on an unarmed group of black men. Id. at 76.

38/ A member of the board of police and fire commissioners testified that the Cairo Police Department generally reflects the attitude of the white community and has been unresponsive to the problems of the black community. Id. at 37-8.

recommends that the Legislature of the State of Illinois take appropriate action to establish the power of the State to take over the responsibilities of local government. Such power should be used only in situations wherein local officials have demonstrated a gross disinclination or inability to exercise their responsibility to local citizens. In the opinion of the Commission, however, the situation in Cairo is so serious that such drastic measures are necessary to guarantee law and justice to all the citizens in that community.

4. The Commission recommends that Congress enact legislation authorizing civil actions by the Attorney General against law enforcement officers and agencies to enjoin patterns of discriminatory treatment as well as interference with lawful organizational efforts of minorities in furtherance of their civil rights.

This same recommendation was made by the Commission in its 1970 report, Mexican Amercians and the Administration of Justice in the Southwest. No legislative action has been taken since then and it is applicable in the Cairo situation. There is at present inadequate authority in the Department of Justice to deal with patterns of police misconduct. The criminal statutes designed to prevent violations of citizens' rights by State and local officers acting under color of law, 18 U.S.C. 241 and 242, apply only to individual acts of misconduct or to conspiracies to commit such acts.

The department receives many complaints of violations of individual rights, such as unlawful arrest, unreasonable detention for investigation, or the excessive use of force which may not warrant prosecution or show the existence of a conspiracy, but which do show a pattern of police misconduct. In these cases, if the local law enforcement agencies do not take steps to prevent the recurrence of such practices, the authority proposed herein is needed to enable the Attorney General to remedy this situation.

Systematic patterns of discriminatory police action have been the basis for lawsuits by individual plaintiffs as members of a class. In Lankford v. Gelston, 364 F. 2d 197 (4th Cir. 1966), the Fourth Circuit held that the Civil Rights Act of 1866 (42 U.S.C. 1983) authorized an injunction against the police commissioner of Baltimore, forbidding further widespread warrantless searches of Negro homes on the basis of unverified anonymous tips. Several other suits have been grounded on similar complaints. Kidd v. Addonizio, D.C. N.J. No. 899 68 July 1967; Robinson v. County of Los Angeles Police Department, D.C. Cal. Civ. No. 68-1763-R Nov. 1968 and Figueroa v. County of Riverside, CA 9th Cir. No. 23931, June 1969.

Since these complaints allege denials of equal protection of the law under the 14th amendment, the Attorney General may have power to intervene in such suits under Title IX of the Civil Rights Act of 1964, which permits such intervention in cases of "general public importance." This power, however, does not negate the need for independent authority in the Department of Justice to initiate such law suits. Authorizing the Attorney General to sue would make

the resources of the Department of Justice, which are superior to those of individual plaintiffs (especially in respect to investigation of departmental policies of law enforcement agencies), available at a much earlier stage and not condition the Attorney General's authority upon the contingency of whether a private cause of action is brought.

In addition, the Attorney General is informed concerning patterns or practices of discrimination through complaints filed with the Department and can make a more informed judgment than an individual on where to initiate such actions. Congress similarly recognized the limitations of private litigation in dealing with discriminatory patterns in the areas of public accommodations, employment, and housing by empowering the Attorney General in the Civil Rights Acts of 1964 and 1968 to bring suits on his own initiative.

Cairo presents a classic example of a community where there has been a pattern of discriminatory police practices as well as attempts to interfere with lawful organizational efforts to further civil rights. These practices have included the failure to provide basic police services to certain areas within the black community, 39/

39/ Testimony by a member of the board of police and fire commissioners and a former black police officer indicated that Pyramid Courts, an all-black housing project, received little or no police patrol or protection. Cario Transcript at 38, 44, 88-9.

harassment of blacks merely because they are black,[40] excessive force in the course of arresting blacks for even minor traffic offenses, and indiscriminate shooting into the all-black housing project.[41] Interference with lawful organizational efforts has included harassment of individuals identified as members of the United Front of Cairo, shooting into the headquarters of the United Front, and threats of death directed at members of that organization.[42]

Some individual incidents of alleged police misconduct by members of the Cairo Police Department have been brought to the attention of the United States Department of Justice and have been subject to investigation by the Federal Bureau of Investigation. In the long run it would be more effective if the Department of Justice were in a position to bring a suit designed to halt a wide range of questionable police practices.

40/ During the presentation of specific incidents of police misconduct and harassment testimony was received to the effect that blacks are stopped and harassed by police officers so often that other black residents will stop and watch to make certain that the person stopped is not unnecessarily abused. Id. at 72-3.

41/ Staff interview with Cairo resident, March 22, 1972, available in Commission files.

42/ Testimony was received from a member of the United Front that during the course of an incident at the Cairo police station the police commissioner, who was heavily armed, displayed an array of police weapons and told him to take a message to the black people of Cairo that there would be "bloodshed in the streets" in response to future incidents. Cairo Transcript at 84-6.

5. The Commission recommends that Congress amend 42 U.S.C. 1983, which now provides Federal civil remedies against individual police officers for police malpractice, so as to make the municipal and State employers of such officers jointly liable with their employees who are adjudged responsible for depriving persons of their civil rights.

This recommendation was made in the 1961 and 1965 Commission reports dealing with justice and law enforcement as well as the 1970 report on Mexican Americans and the administration of justice in the Southwest.[43/] It seeks to assure the victim in a police misconduct case an adequate Federal remedy against a responsible solvent defendant, since individual officers may be unable to pay a judgment for damages.

As the employer, the city or county bears some responsibility for the actions of its employees. In addition, these municipal employers are in a position to take corrective action to prevent further violations of the kind complained of. At present, although a Federal court may issue an injunction against governmental bodies under 42 U.S.C. 1983, no liability in damages arises. Monroe v. Pape, 365 U.S. 167 (1961).

It has been argued that public entities are liable for police malpractice under section 1983 to the same extent that they would

---

43/ U.S. Commission on Civil Rights, Justice (1961) at 113; U.S. Commission on Civil Rights, Law Enforcement (1965) at 179-80; and, U.S. Commission on Civil Rights, Mexican Americans and the Administration of Justice in the Southwest (1970) at 90-91.

be liable under State law, Figueroa v. County of Riverside (supra at 27, but this position has not been generally adopted by the courts.[44/] Thus, although the principle that governmental bodies should be liable for the torts of their employees has gained increased adherence in recent years, immunity under State law is still quite prevalent.[45/] Where government liability for police misconduct exists, there is considerable variation in the type and extent of coverage.

Congressional power to implement the equal protection clause of the 14th amendment is sufficiently broad to reach governmental bodies in this manner. The Supreme Court has held, for example, that Congress may use "any rational means" to protect citizens from denials of equal protection. South Carolina v. Katzenbach,383 U.S. 301 (1966), Katzenbach v. Morgan, 384 U.S. 641 (1966).

This proposal not only would make the existing right of action for denials by individual governmental officers a more effective remedy, but it would also provide a financial incentive for governmental entities to take steps to prevent such violations.

44/ McQuillan, Muncipal Corporations, Vol. 18, 53, 29a. The Federal Government is liable for many torts of its agents under the Federal Tort Claims Act of 1948, 28 U.S.C. 2671 et seq. Eight States -- Idaho, Illinois, Indiana, Kentucky, Minnesota, Ohio, Oregon, and Pennsylvania--have enacted statutes relating specifically to police activities which waive to some extent muncipal immunity in this area. McQuillan, Vol. 18, 53, 79d.

45/ Id.

6. The Commission recommends that the Law Enforcement Assistance Administration (LEAA) undertake a thorough investigation of the Cairo Police Department to determine whether or not that department is in compliance with LEAA's regulations concerning equal employment opportunities and with Title VI of the 1964 Civil Rights Act.

At the time of the Commission's hearing the city of Cairo had received some Federal funding through the Illinois Law Enforcement Commission (ILEC) for the Cairo Police Department. This included a grant of $75,000 for a police-community relations program of which only approximately $6,500 had been spent and the rest was returned by the city to the ILEC. It appears that the Cairo Police Department is not in compliance with LEAA's regulations concerning equal employment opportunity and that certain practices of the police department, such as the failure to provide the Pyramid Courts housing project with police protection similar to that provided to other parts of the city, [46] are in violation of the provisions of Title VI of the 1964 Civil Rights Act. [47] Current funding to Cairo should be halted until such time as the city is

---

46/ Cairo Transcript at 38, 44, 88-89.

47/ 42 U.S.C. 2000d-1(1970), "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

in compliance with Federal law and regulations or until adequate assurances are given that the city will comply with the law and regulations.

It is inconceivable to the Commission on Civil Rights that a law enforcement agency with a record such as the Cairo Police Department should receive any kind of Federal funding unless it is part of a wider commitment to change current practices and policies with regard to civil rights and to basic police services for the black community. If the Cairo Police Department is currently not receiving any Federal funds, then no future proposals for such funds should be seriously entertained by the ILEC unless it is clear that the department has significantly changed its current practices and policies.

EDUCATION

1. The Commission recommends that the Internal Revenue Service (IRS) revise its current procedures for determining whether private, nonprofit educational institutions which have been granted tax exempt status do in fact discriminate on the basis of race or national origin in the enrollment of students.

As a result of the Green v. Connally decision, 330 F. Supp. 1150 (D.D.C. 1971); affd. 404 U.S. 997 (1971), national policy is that tax dollars, even indirectly in the form of a tax exemption, are not to be used to support private, segregated educational facilities.

It is apparent from the testimony received at the Commission's hearing in Cairo that the current IRS procedures requiring private nonprofit educational institutions to provide, as a condition of receiving tax exempt status, assurance that there is no discrimination based on race, creed, color, or national origin in their enrollment policies or practices, are ineffective.

The Camelot School was established in Cairo after desegregation began in earnest in the Cairo Public Schools in 1967. Its all-white enrollment is principally made up of youngsters whose parents do not want them to attend the desegregated public schools. At the time of the Commission hearing no black student had ever attended Camelot and -- in a community where 38 percent of the population is black -- there has never been a black teacher on the faculty.[48/] Although most families in Cairo do not have a great deal of money, the fees at Camelot do not put it out of the reach of many families in the black community.[49/]

The school offers work scholarships to some students who would otherwise be unable to afford the cost of a Camelot education.[50/]

The only step Camelot has taken vis-a-vis compliance with IRS requirements is the placing of advertisements for applicants in the local newspaper which state that it has a nondiscriminatory

---

48/ Interview report, Michael Walker, Staff Attorney, with Jack Greaney, Acting Headmaster, Camelot School, March 21, 1972, available in Commission files.

49/ Cairo Transcript at 222.

50/ Id. at 213.

admissions policy. It is common belief in the black community, however, that Camelot exists solely for the purpose of allowing whites to escape from the desegregated public schools.

The Regional Commissioner for the Midwest Region of the IRS testified at the Commission's hearing that his office had received copies of two newspaper ads from the Camelot School indicating that it has a nondiscriminatory admission policy and that this was sufficient to grant the school tax exempt status.[51] He stated that IRS would have no reason to review the situation in regard to a particular school, such as Camelot, unless IRS had received a specific complaint of discrimination against that institution.[52] Further testimony indicated, however, that a specific complaint against Camelot had been sent to the Director of the IRS in Washington, D.C. -- a complaint the Regional Commissioner stated that he knew nothing about.[53] Thus, the IRS does little to require actual compliance with the Green decision and even when it did receive a specific complaint about Camelot it was unresponsive.

Enrollment at the Camelot School--approximately 14 percent of the potential public school enrollment in the Cairo School District--has seriously undercut the Cairo Public School System.[54]

51/ Cairo Transcript at 301.

52/ Id. at 300-301.

53/ Id. at 303 and 304.

54/ Interview report, Michael Walker, Staff Attorney, with Gene Mason, Superintendent of Cairo Public Schools, March 21, 1972, available in Commission files.

It has significantly reduced the average daily attendance of the public school in Cairo. As is true in most States, State funding of local school districts in Illinois is on a per capita student basis.[55/] Accordingly, fewer students in the Cairo public schools has resulted in a reduction in State financial support.

In addition, the fact that many of Cairo's leading white citizens are sending their children to Camelot and making tuition payments for private education has resulted in strong opposition to additional tax measures designed to raise badly needed money for the public schools.[56/] It is in this context that the question of whether, as a matter of public policy, a school such as Camelot should receive the indirect subsidy of a tax exemption should be viewed. It is extremely doubtful that Camelot, without tax exemption status, could remain financially solvent or eventually obtain State accreditation.

The IRS requirement of nondiscrimination, in order to be meaningful, should place upon the institution applying for tax exempt status a greater burden of assurance that nondiscriminatory policies and practices are, in fact, being followed than is currently the case. Appropriate statistical data including a racial and ethnic breakdown of the school's students, faculty, administrators,

---

55/ Interview with Dr. Michael Bakalis, Superintendent, Illinois Office of Public Instruction, March 21, 1972, available in Commission files.

56/ Interviews with Cairo school officials conducted by Michael Walker, Staff Attorney March 20-22, 1972, available in Commission files.

and the board of trustees should be required from each applicant along with appropriate census data about the makeup of the community from which students are being drawn. Where preliminary analysis of this data raises a question about possible discrimination on the part of the institution applying for tax exempt status, the IRS should make an onsite evaluation of the institution. Such an onsite evaluation should include interviews with local minority residents and representatives of the local public schools as well as representatives of the institution requesting tax exempt status. If such a procedure had been followed in determining whether or not Camelot should receive tax exempt status, the Commission is confident that the IRS would have concluded not to grant such status to Camelot.

2. The Commission recommends that the Cairo School District submit an application to the Department of Health, Education, and Welfare (HEW) for funds now available under the Emergency School Aid Act of 1972 for financial assistance in meeting the special needs of the school district incident to desegregation.

At the time of the Cairo Hearing in March 1972, local school officials complained that they were ineligible to receive Federal assistance for special problems incident to school desegregation because they were carrying out their desegregation plan voluntarily and not pursuant to a court order. Under the Emergency School

Assistance Program (ESAP) of 1971, it is true that the Cairo School District was ineligible to receive such funds according to the language of an opinion of the HEW Office of General Counsel.[57/]

In 1972, however, changes were made in the legislation and the Cairo School District is now eligible to receive such assistance.[58/] In addition, the amount of Federal money available under this program has been greatly increased. Although Cairo voluntarily began its desegregation of the public schools in 1967, after a threat of possible sanctions from HEW, a number of problems incident to school desegregation still exist today. Solutions to some of these problems would be greatly facilitated by the type of financial assistance available under the Emergency School Aid Act and Cairo needs to seek funds for education from every possible source.

3. The Commission recommends that the Illinois General Assembly enact legislation effectively eliminating the financial disadvantage of school districts such as Cairo which have a low tax base to support local school expenditures.

Inequity in State school finance laws has been increasingly recognized as a major factor in perpetuating the problems of towns such as Cairo, which have a low tax base in comparison to other

---

57/ Opinion, Office of General Counsel, Department of Health, Education, and Welfare, Washington, D.C. (undated) available in files of HEW.

58/ Title VII of the Education Amendments of 1972, 86 Stat. 354, 20 U.S.C. 1601.

wealthier districts. Systems of State school financing found to use constitutionally inequitable methods of allocation have been struck down by courts in several States[59/] and suits are pending in other States, including Illinois.[60/] A number of States are in the process of drafting substantial changes in their systems of school financing.[61/] According to testimony by State officials at the Cairo hearing, such changes are being considered in Illinois and the amount of State support available for local school districts will be increasing rapidly in the next few years.[62/]

Cairo's school tax levy has been set at the maximum permissible under Illinois law. Because of Cairo's extremely low tax base, however, this is insufficient to raise enough money to finance the local public schools. The answer does not lie in increasing the rate at which the tax levy can be assessed. In situations such as Cairo where the tax base is insufficient to support the local school system, the answer rests with the Illinois system of State support to local school districts. The wide disparities between wealthy and poor districts must be cured by State legislation designed to

---

59/ Serrano v. Priest, 5 Cal. 3d 584, 487 P. 2d 1241, 96 Cal. Rptr. 601 (1971); Robinson v. Cahill, No. L-18704-69 (Super. Ct. N.J. 1971); and Hollins v. Shofstall, No. C-253652 (Ariz. Super. Ct., Maricopa Cty. 1972).

60/ Blase v. State of Illinois, 71-L 12568 (Ill. App. Ct. 1971); Tax Reform League v. State of Illinois, 72-C-4 (N.D. Ill. 1972); Contra McInnis v. Shapiro, 293 F. Supp. 327 (N.D. Ill. 1968), aff'd. mem. sub. nom. McInnis v. Ogilvie, 394 U.S. 322 (1969).

61/ See, U.S. Commission on Civil Rights, Inequality in School Financing: The Role of Law (1972).

62/ Cairo Transcript at 323.

ensure that all the children of the State, even those residing in relatively poor school districts, receive a quality education.

4. The Commission recommends that the Cairo Board of Education hire the services of a qualified consulting firm in the field of education to assist it in the preparation of requests for Federal funds and to ensure that the Board is taking full advantage of all the Federal funds available in the field of education.

It is clear from testimony received at the Cairo hearing that the local school board, even with the assistance of State and local education experts, has done an ineffective job of preparing requests for Federal education programs available to Cairo. This is due, in part, to the reluctance of the local school board to become heavily involved with Federal programs because of an unreasonable fear of "Federal control." 63/ It is time, however, that the members of the board of education recognize the serious crisis facing them in financing education for the community's children and take steps to secure funds for the local schools from every available source.

The city of Cairo has been employing the shibboleth of outside "control" on the question of Federal and State funding programs for a number of years. Despite the drastic need of its public schools, education has been no exception to this tradition. Various factions in the community, both black and white, have opposed different programs in order to further their own political ends.

63/ Id. at 244 and 288.

As a result, the city of Cairo has, through the years, lost the benefit of thousands of Federal and State dollars, money which could have been of enormous benefit to the entire community. 64/

One of the factors contributing significantly to the decline of Cairo has been the loss of its young people, both those graduating from high school and young families with school age children. A major reason for this loss has been the poor quality of local education. Young people graduating from high school are embittered at the poor quality of an educational system that did not prepare them adequately for higher education or for decent employment opportunities. Families with school age children are unwilling to leave their children in a system unable to provide the quality education they can find elsewhere. 65/

The poor quality of local education has also been an important factor in discouraging private industry from locating in the Cairo area. Although the well publicized racial strife in Cairo has discouraged many companies from locating in Cairo, the poor quality of public services, particularly education, has also been a significant factor. 66/ If Cairo is going to attract outside

---

64/ Interview by Michael Walker, Staff Attorney, with Federal, State, and local education officials, March 20-22, 1972, available in Commission files.

65/ Cairo Transcript at 204 and 211.

66/ Interviews by Michael Walker, Staff Attorney, and Conrad Smith, Assistant General Counsel with State and local economic development officials, March 19-22, 1972, available in Commission files.

industry and establish a sound economic base, it must as a first step, improve the local public schools.

As with any community, one of Cairo's most important assets is its children. The City Fathers' failure to provide a decent education and to establish public policies to provide adequate employment opportunity for these young people condemns Cairo to the continued loss of these same young people, without whom it cannot grow. No community can continue to exist when an overwhelming percentage of its high school graduates move away and plan never to return. In such a community, the local officials by merely presiding over a community doomed to fail are, in effect, assuring that those few young people whose families are trapped in Cairo will be penalized for the rest of their lives by lack of a decent educational opportunity. If Cairo is to avoid further perpetuation of the deterioration it has experienced during the last 30 years, both its citizens and public officials must reassess local priorities and drastically change course. Implementation of these recommendations would be no more than a beginning.

EMPLOYMENT

1. The Commission recommends that the governments of Alexander County and the city of Cairo undertake the following steps to provide equal employment opportunity in public employment and to undo the effects of past discrimination:

a. The Alexander County Board of Commissioners and the Mayor of the city of Cairo should use their powers of appointment to select black residents of the county and the city to serve on various boards and commissions.

It is clear from testimony received at the Cairo hearing that black residents of Alexander County and the city of Cairo have always been underrepresented on the various boards and commissions responsible for establishing policy and for, in some cases, hiring of public employees.[67/] This lack of representation has long been a source of dissatisfaction and frustration to the black community of Cairo, which represents 38 percent of the city's population and 30 percent of the Alexander County population, 70 percent of whom reside in Cairo.[68/] At the time of the Commission's hearing, Alexander County officials had begun to take steps to appoint blacks to the few appointive positions available in the county. In the field of public housing this

---

67/ Cairo Transcript at 495-497.

68/ Demographic Report at 1.

was, in part, due to the pressure of State officials.[69] In addition, a suit had been brought against the city of Cairo for the lack of black representation on the various city boards and commissions.[70] City officials, however, seemed more concerned about fighting the suit than in appointing local blacks to such positions.

The major argument raised by officials in Cairo defending the lack of black representation on local boards and agencies was that there are not enough qualified blacks who are interested in serving. In the opinion of the Commission on Civil Rights this is an all too familiar argument that has little basis in fact. According to the 1970 census, Cairo had a black population of approximately 2,350.[71] Among this segment of the population there are enough persons fully qualified by both education and experience to serve in the Cairo city government in any capacity.

One problem in getting blacks to serve in the city government has been that current and past members of the city council have been more concerned with tokenism than with full-fledged participation. City officials apparently want persons to serve who will not seriously question current policies and will not

---

69/ Cairo Transcript at 456-57

70/ Id. at 25.

71/ Demographic Report at 1.

raise objections to current practices. Black citizens are suspicious of half-hearted attempts to handpick individual black citizens from the community to serve in the local government. The current city council should make it clear that it intends to make the black community a full partner in the decision-making process and that future policies will take into account the interests and concerns of the black community.

b. All promotional opportunities should be announced publicly on a basis which brings the existence of such opportunities to the attention of minority employees and minority persons who are eligible should be encouraged to apply.

In the past there have been two barriers to promotional opportunities for blacks in local government: (1) New promotional opportunities have been handled as an "in-house" operation where individuals outside the traditional lines of communication have not been made aware of them; and (2) many such positions have never been held by a black person and a tradition has developed as to which jobs are open to blacks. Our recommendation is designed to overcome these problems by making certain that everyone is aware of new promotional opportunities and by making it clear to minority employees that they will be seriously considered for the positions, even if in the past they have been held by a white person.

So long as blacks think that job opportunities are limited and that promotion to more responsible, higher paying jobs is denied, it will be impossible to recruit qualified blacks for most jobs, even at the lowest levels of responsibility and salary. It is essential to make it clear that all jobs are open and that promotion will be based on merit in order to recruit blacks in the area of public employment.

c. The county and city governments should establish channels for the flow of information to potential minority applicants about available job opportunities and selection procedures.

As part of any program designed to recruit and hire qualified minority applicants, local government is going to have to undertake positive efforts to attract such applicants. They will have to go far beyond the traditional methods of publicizing new jobs and also assist people with the application process. It will be necessary to establish on-going communication with various individuals and organizations to accomplish this. The agencies themselves have few contacts in the minority community. Instead, they will have to depend on the assistance of established organizations and individuals in the minority community. In addition, they will have to be more open about their selection procedures and the basis for rejecting certain applicants.

Such steps will not be easy. The past history of discrimination and exclusion has led people in the minority community to believe that there is little chance that they will be seriously considered for most job opportunities in local government. As a result, many otherwise qualified persons do not bother to apply for job openings even if they are aware of them. The persons responsible for hiring new employees, however, should not be discouraged by an initially negative response on the part of various individuals and organizations. Instead, personnel recruiters will have to redouble their efforts in order to make such a program work successfully.

d. In the process of integrating their work forces, the county and city governments should take full advantage of all available outside training programs and establish on-the-job training and/or work-study programs for otherwise qualified minority applicants.

In order to successfully employ minority job applicants, it will be necessary for the local governments in some instances to provide adequate training to new employees. Persons who would otherwise be qualified for employment may need specific training to prepare them for a particular job. There are a number of different training programs utilizing Federal funds that would be appropriate for Cairo and Alexander County.[72/]

72/ Manpower Development and Training Act of 1962, as amended through Oct. 24, 1968, Title I, Sec. 102(6), 42 U.S.C. 2571 et seq.

The establishment of such programs would benefit the local governments in two ways. (1) It would improve the overall performance of county and city employees. (2) It would help attract minority applicants to available jobs by ensuring: (a) that they would be properly trained for existing jobs, and (b) that persons without specific experience in such jobs, but who possess the basic qualifications, would, by virtue of these training programs, be able to obtain employment.

2. The Commission recommends that the Illinois General Assembly amend the State Fair Employment Practices Act so that the Fair Employment Practices Commission (FEPC) would be empowered to initiate investigations on its own and issue orders aimed at a pattern or practice of discrimination by public and private employers rather than be limited to its present power of responding to specific complaints.

The Illinois Fair Employment Practices Commission has received a number of complaints of employment discrimination in the Cairo-Alexander County area. These complaints have involved both private and public employers. The Commission on Civil Rights is hopeful that with the projected increase in the size of the FEPC's budget and staff, the time lag in handling such complaints will decrease and that all future complaints will be handled in an expeditious manner. 73/

73/ Cairo Transcript at 573.

While the FEPC enforcement program has had some effect on the private employment situation in Cairo, it has had a negligible effect on the problems of employment discrimination in the public sector. 74/

There are two factors that contribute to this problem. First, the FEPC must wait until it receives a specific complaint before it can intervene. 75/ In Cairo, however, many people are loathe to complain for fear of retaliation, 76/ are ignorant of the possibility of relief through the complaint process, or if informed, are skeptical of any positive result through the complaint process. In addition, because of the past racial history of the community, many minority persons are unwilling to even attempt to secure public employment, except for positions that have been traditionally held by a minority person. Second, the remedy that can be proposed by the FEPC is limited to the specific complaint being

---

74/ Three of the 84 charges filed with the FEPC from Cairo dealt with public employment; the remaining charges were filed against private companies or unions. Id. at 571-72.

75/ Id. at 572; Ill. Rev. Stat. ch. 48, § 856 (Smith-Hurd 1967).

76/ Staff interviews by Michael Smith, Staff Attorney, with various black residents of Cairo. Mar. 20-22, 1972, available in Commission files.

investigated,[77] and it can use any findings of discriminatory patterns only as evidence to support that individual complaint, rather than as the basis for a broad order designed to eliminate the root causes of employment discrimination by an employer.

In the field of employment discrimination, it is up to government at all levels--Federal, State, and local--to take the lead and thereby become a model for employers in the private sector. The job of uncovering and remedying employment discrimination rests with the government. In order to do that job properly, it is necessary to invest all the available powers under the State Constitution in the agencies established to accomplish this task. At present the Illinois FEPC is handicapped in its efforts to carry out that task. The addition of the powers recommended above would provide the FEPC with the additional authority needed to change the public employment pattern in cities like Cairo.

3. The Commission recommends that the Equal Employment Opportunity Commission (EEOC) undertake an investigation of the employment practices of the city of Cairo and Alexander County to determine whether there is a pattern or practice of employment discrimination and take appropriate action to eliminate such discrimination.

77/ Ill. Rev. Stat. ch. 48, §856 (Smith-Hurd 1967).

The Federal Equal Employment Opportunity Commission (EEOC) now has the authority to deal with questions of employment discrimination in the field of public employment.[78/] One of the major problems apparent at the Commission's hearing in Cairo was the failure of the local units of government to employ minority persons. In the opinion of the Commission, this failure is due, in part, to the unwillingness of local officials to recruit and hire minority persons, except for the most menial and low-paying positions.

As a result of this failure to consider minority persons for public employment, even in such sensitive areas as law enforcement, public agencies of the city of Cairo and Alexander County are in many respects completely unrepresentative of more than one-third of the local population. This, in turn, has led to a breakdown in both the formulation of public policy and in the provision of basic governmental services insofar as the needs of the black citizens of Cairo are concerned.

The black citizens feel alientated from these agencies and the governments they represent. They feel no need to support agencies that are unresponsive to their particular problems and unfamiliar with their opinions. In the absence of local initiative and in

---

78/ 42 U.S.C. 2000e, §701(a) & (b), as amended, Mar. 24, 1972.

light of current restrictions on the powers of the Illinois FEPC, the Commission believes it is incumbent on the appropriate Federal Agency, in this case EEOC, to take action to resolve this untenable situation.

4. The Commission recommends that the Office of Federal Contract Compliance (OFCC) undertake an investigation of all employers in the Cairo and Alexander County area who are subject to regulations covering Federal contractors to determine whether they are violating the provisions of Executive Order 11246.

Executive Order 11246 prohibits employment discrimination by Federal contractors and subcontractors and requires that such contractors undertake a program of affirmative action to ensure that applicants are employed and employees are treated during employment without discrimination. The Office of Federal Contract Compliance (OFCC) in the Department of Labor has overall responsibility for making certain that the various Federal Agencies adequately carry out their responsibilities under this Executive Order and has the power to investigate such matters on its own.[79/]

Testimony was received at the Cairo hearing indicating that companies with Federal contracts who are operating in Cairo or Alexander County are not meeting their responsibilities under

---

79/ Executive Order 11246, 41 CFR 60.

this order, particularly in the area of promotional opportunities.[80/] The existence of continued employment discrimination and the failure of private companies to take the required affirmative action has contributed to the serious racial situation in the Cairo area. The lack of adequate employment opportunities due to many years of economic decline is encountered to some extent by Cairo residents generally, but is compounded for black Cairo residents in particular. This has resulted in a significant income gap between whites and blacks and has kept the black community in an impoverished position.[81/] Dependency, though often rooted in tradition, is very much a matter of economics, as the situation in Cairo bears out. No employer receiving Federal funds should be allowed through discriminatory employment practices, to contribute to such a situation and, if an employer does, it should either correct the situation immediately or face the loss of all Federal contracts.

80/ Cairo Transcript at 529 and 536.

81/ Demographic Report at 5-6.

HOUSING

1. The Commission recommends that the Department of Housing and Urban Development (HUD) require the Alexander County Housing Authority to comply immediately with fair housing laws and regulations.

At its hearing in Cairo the Commission learned that the Alexander County Housing Authority is operating segregated public housing projects in the city of Cairo.[82] With the exception of one project recently built for the elderly, assignments for the various housing projects located in Cairo are made on a racial basis.[83] Testimony was also received to the effect that the condition of the projects housing black families was poorer than that housing white families and that the housing authority was less responsive to requests for service from residents of the black projects.[84]

Local officials defended their policies on the grounds that they were afraid that any attempts to change the traditional assignment policies would cause serious racial conflict.[85] Regional officials of the Department of Housing and Urban Development (HUD) were unable to adequately explain why such a

---

82/ Cairo Transcript at 383-387.

83/ Id. at 368-369, 377.

84/ Id. at 369-372.

85/ Id. at 387.

situation was permitted to exist in light of Federal policy.[86] The Federal law and regulations are clear--segregated public housing is against Federal policy.[87] In Cairo, however, this policy has not been adequately implemented.[88]

The continued existence of segregated public housing in Cairo has been a factor in preventing the solution of that community's serious racial problems. It represents an attempt to maintain the status quo in the face of changing conditions and policies throughout the United States. Black residents of Cairo have long felt outside the flow of general community life; officially endorsed housing segregation has reinforced that feeling. The failure of local officials as well as Federal officials to enforce existing law has convinced many black residents of Cairo that the law is meaningless and has contributed to their deep distrust of officials in all areas of government. The time has long since passed for HUD officials to do what is legally required of them.

In the course of their testimony Federal housing officials told the Commission of plans to modernize some of the public housing in Cairo.[89] As part of the modernization program they

---

86/ Id. at 472, 474 and 480.

87/ Title VIII, Civil Rights Act of 1968, Sec. 803, 42 U.S.C. 3603 (1968).

88/ Cairo Transcript at 461 and 472.

89/ Id. at 468.

plan to take steps to desegregate the existing and newly renovated housing units. 90/ The Commission plans to watch this program closely to make certain that the desegregation is, in fact, accomplished. In addition, however, it will be necessary to make major changes in other areas, such as assignment policy, to effectively accomplish desegregation and to ensure that the local housing authority does not revert to past practices.

2. The Commission recommends that the Department of Housing and Urban Development (HUD) strengthen its fair housing program by conducting a quarterly analysis of racial and ethnic data regarding program participation.

It is not entirely clear to the Commission how a situation, which has captured national attention and concern, and which appears as clear cut as the one in Cairo, could escape the attention of HUD. Federal policy and responsibility is clear, yet segregated public housing was allowed to exist in a community subject to severe racial strife and discrimination. Although a great deal of time and effort has been focused by HUD on the problems of major cities with enormous numbers of public housing units, the situation in Cairo, at least in regard to public housing, is equally as bad as in many of the large cities. But in some ways the Cairo situation is much more susceptible to solution.

90/ Id. at 468 and 481.

Based on the testimony of Federal officials the possibility exists that a large number of towns and cities across the United States who have public housing are not in line with current Federal policy. A more stringent and frequent analysis of racial and ethnic data will give HUD more opportunity to become aware of situations such as Cairo. In addition, it will give them an opportunity to adjust their program priorities in order to better take into account noncompliance by various housing authorities, particularly in smaller communities such as Cairo.

HEALTH CARE

1. The Commission recommends that the Department of Health, Education, and Welfare (HEW) assist smaller, remote communities such as Cairo in drawing up long range plans designed to provide comprehensive health care for all citizens and, in coordination with State and Federal agencies, establish programs to meet the immediate health needs of those citizens who currently receive inadequate, or in certain areas, no health care.

Testimony at the Cairo hearing brought out the fact that the quality of health care available to the citizens of Cairo and Alexander County is totally inadequate, particularly for poor black families.[91/] In contrast, testimony concerning the OEO-funded clinic at St. Mary's Hospital was laudatory and indicated that the clinic was an important beginning in filling the need for quality health care for low-income blacks that had previously been nonexistent.[92/] At the time of the hearing, however, continued Federal funding of this clinic was under debate, and by late 1972 OEO had decided not to fund the clinic for another year.[93/] When

---

91/ Cairo Transcript at 608 and 612.

92/ Id. at 664 and 668.

93/ OEO Grant No. 50245, terminated Sept. 30, 1972, was not refunded due to insufficient funds in the OEO budget. Although technically bankrupt, St. Mary's Hospital has kept the clinic going, but will be totally without financial resources to do so after Dc. 31, 1972.

asked whether or not the Department of Health, Education, and Welfare (HEW) would consider giving financial assistance to keep the clinic in operation, Mr. Roy Armstrong, Acting Director of Comprehensive Health Planning for Region 5, said that an absence of information about communities such as Cairo prevents Federal resources from being fully utilized, and he could give no assurance of HEW support.[94/]

It is the Commission's opinion that the closing of the clinic at St. Mary's Hospital would represent a major health disaster for poor black residents of Cairo and Alexander County. Although the clinic is not able to meet all the health needs of the black community, it is at least a major step in the right direction. In the future, more extensive and up-to-date facilities will have to be established to do a comprehensive job. In the past local medical practitioners have not been responsive to the health needs of the black community[95/] and a return to the former system of health care would severely undermine what progress has been made in attacking the health problems of the black community.[96/]

94/ Cairo Transcript at 689.

95/ Id. at 650, 651 and 653.

96/ Id. at 673 and 675.

The Commission strongly urges OEO to reconsider its decision to end Federal funding of health facilities in Cairo and urges HEW to undertake a strong role in the provision of immediate health care as well as in planning for the future health needs of local citizens.

2. The Commission recommends that the State of Illinois, pursuant to its responsibilities under State law, undertake further steps to ensure that adequate health care is available to those citizens of Cairo and Alexander County who have no means to provide for their own needs.

By statute the State of Illinois is responsible for medical care to any persons unable "because of inadequate means to meet their essential medical needs." 97/ In a community such as Cairo where certain medical services and facilities are not available to members of the black community and, therefore, direct financial assistance to persons in need of health care is not a viable alternative, the State has a duty to provide medical assistance in some other form that would meet the needs of the black community.

The Commission believes that it is appropriate for the State of Illinois to undertake a complete survey of the current medical services and facilities in Cairo and Alexander County to determine what programs are most needed in the local community and what further steps the State should take to meet those needs.

97/ Ill. Rev. Stat. ch. 23, § 5-1 (Smith-Hurd 1967).

3. The Commission recommends that the Illinois Department of Registration and Education take appropriate action to determine whether individual dentists practicing in Cairo have refused to treat persons on the basis of race and begin action to revoke their license to practice if they are found to practice such discrimination.

Under Illinois statutes pertaining to medicine and surgery, the Illinois Department of Registration and Education may suspend or revoke the license to practice of any dentist for just cause.[98/] Racial discrimination in providing dental care is defined as a form of unethical conduct by regulation of the Illinois licensing authority, and is grounds for the revocation of the license to practice dentistry.[99/]

Testimony was received at the Commission's hearing indicating that blacks are unable to obtain adequate dental care in Cairo, but instead often are referred to dentists outside Cairo, sometimes as far as 40 miles away.[100/]

A thorough investigation should be made of this situation, and if any violation of State law has occurred appropriate steps should be taken.

98/ Ill. Rev. Stat. ch. 91, §§ 58a (Smith-Hurd 1969) and 62 (Smith-Hurd 1971).

99/ Rules and Regulations Promulgated for the Administration of the Illinois Dental Practice Act, Ill. Rev. Stat. ch. 91, § 58a (Smith-Hurd 1969) Rule III A.

100/ Cairo Transcript at 97, 98, 613, 619, 627 and 628. Cairo dentists who testified denied that any racial discrimination was involved. They stated that their clientele is drawn from referrals by other patients, and is selected on bases such as economic means--not on the basis of race. Id. at 617, 618, 635 and 636.

MISSION ON CIVIL RIGHTS
SHINGTON, D. C. 20425

OFFICIAL BUSINESS
TY FOR PRIVATE USE $300

POSTAGE AND FEES PAID
U. S. COMMISSION ON CIVIL RIGHTS

UNIVERSITY OF ILLINOIS-URBANA
301.451UN334C C001
CAIRO, ILLINOIS: A SYMBOL OF RACIAL POLA
3 0112 025280824